

**IN THE UNITED STATES DISTRICT COURT FOR
THE DISTRICT OF DELAWARE**

IPC SYSTEMS, INC.,

Plaintiff,

v.

CLOUD9 TECHNOLOGIES LLC,

Defendant.

C.A. No. 16-443 (CFC)

JURY TRIAL DEMANDED

**DEFENDANT’S MOTION FOR SANCTIONS UNDER RULE 37(b) AND
OTHER RELIEF DUE TO IPC’S NON-COMPLIANCE WITH THE COURT’S
OCTOBER 2, 2018 ORDER**

Defendant Cloud9 Technologies LLC hereby moves for sanctions under Rule 37(b) and other relief due to IPC Systems, Inc.’s (“IPC”) non-compliance with the Court’s October 2, 2018 Order compelling IPC to provide certain disclosures for its purported technical trade secrets. In particular, IPC should be precluded from asserting any purported technical trade secrets for which IPC did not comply with the Court’s October 2, 2018 order and should pay Cloud9’s reasonable expenses, including attorney’s fees, caused by IPC’s non-compliance. The grounds for this motion are set forth in the Opening Brief in Support being filed contemporaneously herewith.

Dated: October 26, 2018

Respectfully submitted,

/s/ Kenneth L. Dorsney

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Attorneys for Cloud9 Technologies LLC

RULE 7.1.1 CERTIFICATE

Counsel for Cloud9 Technologies LLC confirms that a reasonable effort has been made to reach agreement on the matters set forth in this letter. The effort included oral communication and Delaware counsel for both parties. IPC Systems, Inc.'s counsel indicated that IPC Systems, Inc. will not agree to relief sought by Cloud9 Technologies LLC.

/s/ Kenneth L. Dorsney

Kenneth L. Dorsney (#3726)

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

IPC SYSTEMS, INC.,)	
)	
Plaintiff,)	
)	
v.)	C.A. No. 16-443 (CFC)
)	
CLOUD9 TECHNOLOGIES LLC,)	
)	
Defendant.)	

[PROPOSED] ORDER

A Motion for Sanctions Under Rule 37(b) And Other Relief Due To IPC’s Non-Compliance With The Court’s October 2, 2018 Order having been made by motion on October 26, 2018, by Defendant Cloud9 Technologies LLC (“Cloud9”); Plaintiff IPC Systems, Inc. (“IPC”) having responded; and the Court having heard argument of counsel, being fully advised and of the opinion that the motions should be granted;

Now, therefore:

1. The Court finds that IPC has not complied with the Court’s October 2, 2018 Order requiring IPC to provide a one-paragraph to three-page description or flowchart that concisely defines the algorithm and the step-by-step procedures that the algorithm comprises for technical trade secret Nos. 3, 4, 5, 7, 8, 9, 11, 14, 16, 17, 27, and 29, without substantial justification.
2. The Court further finds that IPC has not complied with the Court’s October 2, 2018 Order to disclose the parameters, co-efficients, or values for purported trade secrets identified by IPC in its response to discovery requests that encompasses specific parameters, co-efficients, or values, namely technical trade secret Nos. 6, 10, and 31, without substantial justification.

3. The Court further finds that IPC has not complied with the Court's October 2, 2018 Order to identify specific lines of code pertinent to technical trade secret No. 31, without substantial justification.

4. IT IS ORDERED that IPC shall be precluded from asserting technical trade secret Nos. 3, 4, 5, 6, 7, 8, 9, 10, 11, 14, 16, 17, 27, 29, and 31 as part of its trade secret allegations in this case.

5. IT IS FURTHER ORDERED that IPC or counsel advising IPC shall pay Cloud9's reasonable expenses, including attorney's fees, associated with IPC's non-compliance with the October 2, 2018 Order.

SO ORDERED, this ____ day of _____, 2018.

UNITED STATES DISTRICT JUDGE